



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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SEP 27 1973

American Laundry
Ross Street and Section Road
Cincinnati, Ohio 45202

Attention: Mr. John R. Fullerton

Gentlemen:

This is in reply to your telefax message of July 3, 1973, protesting against the award of a contract to the Ludell Manufacturing Company by the Veterans Administration (VA) Marketing Center, Hines, Illinois, pursuant to solicitation M2-48-73.

The solicitation was issued as a two-step procurement for washers and other equipment to be installed in the VA Hospital laundry at Waco, Texas. Ludell was awarded a contract on the basis of its low bid submitted in response to the second step invitation for bids. You claim, however, that Ludell's bid was nonresponsive because it offered hydraulic extractors instead of the strike extractors originally proposed in the step one phase of the procurement.

The VA report on this matter (a copy of which has been furnished you) states that Ludell did originally propose using strike extractors but that during negotiations Ludell modified its approach by substituting hydraulic extractors in accordance with the preference expressed by VA technical personnel. VA further states that it was Ludell's modified proposal that was accepted and upon which a bid price was solicited. Thus, while you are correct in asserting that Ludell's initial proposal involved the use of strike extractors, it appears that Ludell subsequently submitted a modified proposal which called for hydraulic extractors and which was viewed as acceptable by the VA. Discussion of initial proposals and submission of revisions and modifications based thereon during step one of a two-step procurement are clearly contemplated by FPR 1-2.503-1, and a bid based on a proposal that, as modified, was accepted by the procuring agency cannot be regarded as nonresponsive.

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For the foregoing reasons, your protest is denied.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States